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10/663,952	09/16/2003	Samar Choudhary	RSW920030153US1 (118)	3845

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EXAMINER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/663,952	CHOUDHARY ET AL.	
	Examiner	Art Unit	
	KimbleAnn Verdi	2194	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 January 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-18* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-18* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claims 1-18 are pending in the current application.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-2, 4, 8-9, 11-13, and 15-17 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. The term "observing" in claims 1-2, 4, 8-9, 11, and 15 is a relative term which renders the claim indefinite. The term " observing " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

State changes and action invocations are rendered indefinite by the use of the term "observing". For purposes of examination observing state changes and action invocations is interpreted as capturing and reviewing state changes and action invocations.

4. The term "subsequently" in claims 1, 8, 12-13, and 16-17 is a relative term which renders the claim indefinite. The term " subsequently " is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

Responding to each observed state change with a specified action invocation is rendered indefinite by the use of the term "subsequently". For purposes of examination responding to each subsequently observed state change with a specified action invocation is interpreted as responding to each observed state change with a specified action invocation.

Claim Rejections - 35 USC § 101

5. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. Claims 4-10 and 15-18 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

7. Claims 4-10 recite a "A user centric policy creation and enforcement system" ' however, it appears that an a user centric policy creation and enforcement system would reasonably be interpreted by one of ordinary skill in the art as software, per se since the body of the claim appears to be software. Applicant claims a policy interface unit and a plurality of user interface views, as described by Applicant's specification,

appear to be data structures which are functional descriptive material. However, function descriptive material is nonstatutory when claimed as descriptive material per se. Applicant describes the functionality of a policy interface unit and a plurality of user interface views but does not disclose any hardware structure. As such, it is believed that a user centric policy creation and enforcement system of claims 4-10 is reasonably interpreted as functional descriptive material, per se and non statutory.

8. Claims 8-10 and 15-18 recite a "machine readable storage" and the specification fails to provide antecedent bases for this limitation [see objection to the specification above]. Without antecedent basis for "machine readable storage", it is unclear if the limitation intended to be the same as the storage media described as part of the disclosed program product or whether it's intended to be broader than the disclosed storage media. It is believed that the limitation "machine readable storage" is intended to claim something broader than the disclosed storage media and cover signals, waves and other forms of transmission media, that carry instructions. Therefore, the limitation "machine readable storage" is not limited to physical articles or objects which constitute a manufacture within the meaning of 35 USC 101 and enable any functionality of the instructions carried thereby to act as a computer component and realize their functionality. As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

10. Claims 1, 3-8, and 10-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over 2002/0073195 A1 to Hellerstein et al. (hereinafter Hellerstein) in view of 2002/0091753 A1 to Reddy et al. (hereinafter Reddy).

11. As to claim 1, Hellerstein teaches the invention substantially as claimed including a user centric policy creation and enforcement method comprising the steps of:

establishing correlations between said observed state changes and action invocations (paragraph [0023]);

formulating rules in a policy based upon user selected ones of said established correlations (paragraph [0062]), each of said rules specifying a state change in at least one of said applications (paragraph [0044]), and at least one resulting action invocation in at least one other of said applications (paragraph [0018]); and

applying said policy to automatically respond to each subsequently observed state change with a specified action invocation (paragraph [0049]).

Hellerstein does not explicitly disclose observing state changes and action invocations in disparate applications through visual views of said applications.

However Reddy discloses observing state changes and action invocations in disparate applications through visual views of said applications (paragraph [0026]).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have modified the Event Management System of Hellerstein with the teachings of Application Monitoring and Management System from Reddy because this feature would have provided a mechanism that allows an entity to remotely monitor and manage a number of applications that are executing on a number of different computer systems associated with a number of different domains (paragraph [0006]).

12. As to claim 3, Hellerstein teaches wherein said step of establishing comprises the steps of:

noting a time for each of said observed state changes (paragraphs [0003]-[0004]);

further noting a time for each of said action invocations (paragraph [0049] and [0057]); and,

correlating said observed state changes with said action invocations based upon said noted times (e.g. generating rules from historical event data, paragraph [0049] and [0051]).

13. As to claim 4, this claim is rejected for the same reasons as claim 1 since claim 4 recites the same or equivalent invention, see the rejection to claim 1 above.

14. As to claim 5, Hellerstein as modified teaches the system of claim 4, wherein said user interface views comprise portlet views (paragraphs [0006] and [0015] of Reddy).

15. As to claim 6, Hellerstein as modified the system of claim 4, wherein said policy interface unit is disposed within an integrated solutions console (paragraphs [0006] and [0015] of Reddy).

16. As to claim 7, this claim is rejected for the same reasons as claim 1 since claim 7 recites the same or equivalent invention, see the rejection to claim 1 above.

17. As to claim 8, this claim is rejected for the same reasons as claim 1 since claim 8 recites the same or equivalent invention, see the rejection to claim 1 above.

18. As to claim 10, this claim is rejected for the same reasons as claim 3 since claim 10 recites the same or equivalent invention, see the rejection to claim 3 above.

19. As to claim 11, this claim is rejected for the same reasons as claim 1 since claim 11 recites the same or equivalent invention, see the rejection to claim 1 above.

20. As to claim 12, this claim is rejected for the same reasons as claim 4 since claim 12 recites the same or equivalent invention, see the rejection to claim 4 above.

21. As to claim 13, Hellerstein teaches the method of claim 11, further comprising the step of enforcing said policy in said at least one other policy interface unit (paragraph [0065]) to automatically respond to each subsequently observed state change with a specified action invocation (paragraph [0049]).

22. As to claim 14, Hellerstein as modified teaches the method of claim 13, further comprising the step of limiting said enforcing of said policy in said at least one other policy interface unit based upon pre-defined permissions (paragraphs [0021]-[0023] of Reddy).

23. As to claims 15-18, these claims are rejected for the same reasons as claims 11-14 respectively, since claims 15-18 recite the same or equivalent invention, see the rejections to claims 11-14 above.

24. Claims 2 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over over 2002/0073195 A1 to Hellerstein et al. (hereinafter Hellerstein) in view of 2002/0091753 A1 to Reddy et al. (hereinafter Reddy) as applied to claims 1 and 8 above, and further in view of 6,965,900 B2 to Srinivasa et al. (hereinafter Srinivasa).

25. As to claim 2, Hellerstein as modified by Reddy does not explicitly teach wherein said step of observing comprises the steps of:

page crawling markup defining a visual view of said applications; and,

demarcating segments of said markup as segments which visually indicate state changes in said applications.

However Srinivasa teaches wherein said step of observing comprises the steps of:

page crawling (crawling agents called category agents 120a-120n, 122a-122n, Fig. 3, lines 38-42) markup defining a visual view of said applications (Essential Dimension Markup Language and Event Markup Language, col. 9, lines 35-40); and,

demarcating (e.g. marking) segments of said markup as segments which visually indicate state changes (e.g. event description) in said applications (sequence marked as potential event description, col. 9, lines 42-44).

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have further modified the Event Management System of Hellerstein as modified by Reddy with the teachings of page crawling and demarcating (e.g. marking) from Srinivasa because these features would have provided the Web-based Enterprise Management environment of Sanghvi with a special markup language to identify primary components (used to detect events) between the HTML/XML tags of

a document (event extraction 90, Fig. 2, col. 9, lines 35-38) and category agents (web crawler) programmed to search for HTML and XML text (col. 10, lines 32-34).

26. As to claim 9, this claim is rejected for the same reasons as claim 2 since claim 9 recites the same or equivalent invention, see the rejection to claim 2 above.

Response to Arguments

27. Applicant's arguments filed January 2, 2008 have been fully considered but they are not persuasive. In response to the Non-Final Office Action dated May 15, 2007, applicant argues in regards to claims 1-18:

> (1) **On page 3 of the Second Office Action, the Examiner asserted that paragraph [0023] of Hellerstein teaches "observing state changes and action invocations" and that paragraphs [0016]-[0025] and [0179] of Christensen teach" observing state changes and action invocations in disparate applications through visual views of said applications." Applicants disagree with both assertions** (page 2, lines 14-17).

In response to argument (1), Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection. Examiner notes that Hellerstein does not explicitly disclose observing state changes and action invocations in disparate

applications through visual views of said applications as recited on page 3, lines 9-10 of the Non-Final Office Action dated 10/09/2007.

(2) **Regarding paragraph [0023] of Hellerstein, although Applicants acknowledge that this paragraph refers to constructing correlation rules, this passage is silent as to these rules being based upon both observed state changes and action invocations** (page 2, lines 19-21). But absent from the Examiner's cited passages is a teaching that the correlation rules are based upon observed state changes. Thus, Hellerstein fails to teach the limitations for which the Examiner is relying upon Hellerstein to teach (page 3, lines 2-3).

In response to argument (2), examiner respectfully disagrees and notes that the features upon which applicant relies (i.e., rules being based upon both observed state changes and action invocations, the correlation rules are based upon observed state changes) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

(3) **Thus, this passage fails to teach the claimed "visual views of said applications." Moreover, Applicants are unclear as to where this passage specifically teaches that both state changes and action invocations in the**

disparate applications are observed. Thus, Christensen fails to teach the limitations for which the Examiner is relying upon Christensen to teach (page 3, lines 21-24).

In response to argument (3), Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

(4) **As such, Applicants are unclear as to why one having ordinary skill in the art would have been impelled to modify Hellerstein in view of Christensen to obtain these alleged benefits since these alleged benefits do not appear to be additive to the teachings of Hellerstein** (page 4, lines 10-13).

In response to argument (4), Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

(5) **Regarding claim 3, the Examiner referred to paragraph [0003] of Hellerstein as to the claimed "noting a time for each of said observed state changes." This passage, however, refers to events and not state changes, as claimed. Thus, Hellerstein further fails to teach the limitations for which the Examiner is relying upon Hellerstein to teach** (page 4, lines 16-19).

In response to argument (5), examiner respectfully disagrees and notes that the Hellerstein discloses noting a time for each of said observed state changes. Hellerstein teaches an event message contains multiple attributes, especially the time at which the event was generated (paragraph [0003]). For example an event message contains multiple attributes, especially the time at which the event was generated can be interpreted as noting a time for each of said events (e.g. observed state changes) since the event message is parsed to translate it into a normalized event (paragraph [0004]) and examples of events are exceptional conditions generated by a computing device (paragraph [0003]), which can be interpreted as an observed state change in a computing device. In addition, Applicant's specification describes an event as a state change (paragraph [0031] Applicant's specification).

(6) **Applicants respectfully submit that the Examiner's citation of Srinivasa to teach the limitation recited in claims 2 and 9 is inappropriate. At the outset, Applicants note that the "event" described by Srinivasa does not corresponding to the claimed "state changes in said applications." Instead referring to the Background of the Invention, Srinivasa describes an event as "sporting events and entertainment events and the like." Thus, the identification of the event in Srinivasa by page crawling does not correspond to the claimed invention** (page 5, lines 8-13).

In response to argument (6), examiner respectfully disagrees and notes that the Hellerstein as further modified by Srinivasa discloses demarcating segments of said markup as segments which visually indicate state changes in said applications. Hellerstein as further modified by Srinivasa teaches if the markup page contains "TLE" patterns close in proximity then each sequence, in a markup page, can be marked as a potential event description. For example if the markup page contains "TLE" patterns close in proximity then each sequence, in a markup page (web document), can be marked as a potential event description can be interpreted as demarcating segments of said markup as segments which visually indicate event descriptions (e.g. state changes in said applications) since the event description is event information extracted from tags in some existing markup language such as HTML or XML (col. 9, lines 25-45) and event descriptions are identified by a "TLE" pattern and then marked as a potential event description (col. 9, lines 35-45), which can be interpreted markup which visually indicates state changes in said applications. In addition, Applicant's specification describes demarcating segments of said markup as segments which visually indicate state changes in said applications as converting the portlet view to a uniform markup language representation such as XML and the administrator can select the portion of the markup evidencing the state change in the underlying application (e.g. state change is represented as markup language in an XML document) (paragraph [0025] Applicant's specification).

(7) **Moreover, along the same lines, the paragraphs identified by the Examiner do not teach that the "events" are associated with applications** (i.e., a plurality of applications) (page 5, lines 13-15).

In response to argument (7), examiner respectfully disagrees and notes that the features upon which applicant relies (i.e., "events" are associated with applications) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

28. The prior art made of record on the accompanying PTO-892 and not relied upon, is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KimbleAnn Verdi whose telephone number is (571)270-1654. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm EST..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Meng-Ai An can be reached on (571) 272-3756. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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KV
March 27, 2008

/VAN H NGUYEN/
Primary Examiner, Art Unit 2194